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July 11, 2022

VIA ECF AND FACSIMILE

Hon. Paul G. Gardephe
United States District Judge
Thurgood Marshall
United States Courthouse, Courtroom 705
40 Foley Square
New York, NY 10007
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RE: *Bytemark, Inc. v. Xerox Corp., et al.*, in the United States District Court for the Southern District of New York; Civil Action No. 1:17-cv-01803-PGG — Request to Strike Bytemark's July 8, 2022, Discovery Letter for Failing to Confer with Defendants Before Filing

Dear Judge Gardephe:

I write to ask that Your Honor strike Plaintiff Bytemark, Inc.'s ("Bytemark") discovery letter filed Friday, July 8, 2022 (Dkt. 175). Bytemark filed the letter without ever requesting a meet and confer on many of the issues of which it complains. For example, Bytemark requests an order compelling Conduent to respond to Bytemark's Stipulated Revised Interrogatory No. 17. Conduent received that Interrogatory for the first time on July 6, 2022, two days before Bytemark filed its letter. Conduent intends to respond to that revised interrogatory by the end of this week. Defendants are also working to address the other issues Bytemark prematurely raised with the Court on Friday. Given Bytemark's failure to adequately confer and non-compliance with Your Honor's Individual Rule IV(E), requiring that discovery disputes be presented in a jointly composed letter between the parties, Defendants request that Bytemark's discovery letter, Dkt. 175, be stricken.

If Defendants' efforts to resolve Bytemark's concerns are unsuccessful, then Defendants propose that the parties submit a jointly composed letter ten days from today, on July 21, 2022, describing any remaining disputes. That schedule leaves more than two months in the fact discovery window for the Court to consider any such disputes. Dkt. 159 (Case Management and Scheduling Order) at ¶ 6 (setting a fact discovery deadline of Sept. 29, 2022). I have attached a proposed order for Your Honor's convenience.

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Respectfully submitted,

McKool Smith, P.C.

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